# A REPLY

To a Paper of

# Dr Sanderſons,

# CONTAINING

A Cenſure of

Mr. A. A. his Booke

OF THE

## Confuſions and Revolutions

OF

## Goverment.

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A

# Dr Sanderſons

## Paper and Cenſure.

UPon perſual of Mr *Aſcham's* Book you left with mee, I find not my ſelf in my underſtanding therby convinc'd of the Neceſſity or Lawfulneſs of Conforming unto, or Complying with an unjuſt prevailing Power, further than I was before perſwaded, it might be Lawful or Neceſſary ſo to do: *viz.* As paying Taxes, and Submitting to ſome other things (in themſelves not unlawfull) by them impoſed or required; ſuch as I had a Lawful Liberty to have done in the ſame manner, though they had not been ſo Commanded, and ſeem to mee in the Conjuncture of preſent Circumſtances, prudentially neceſſary to preſerve my ſelf or my Neighbour from the Injuries of Thoſe that would bee willing to make uſe of my Non-ſubmiſſion, to Mine or His ruine; ſo as it be done with theſe Cautions:

1. Without Violation either of Duty to God, or any other juſt Obligation, that lie's upon mee by Oath, Law, or otherwiſe.

2. Onely in the caſe of Neceſſity otherwiſe not to be avoided.

3. Without any explicite or implicite Acknowledgment of the Juſtice and Legality of their Power: I may ſubmit to the Δυνάμει (to the *Force*) but not acknowledge the Ἐξουσία, (the *Autority*) or by any Voluntary Act give ſtrength, aſſiſtance, or countenance thereunto.

4. Without any prejudice unto the claime of the Oppreſſed Party that hath a right, Title; or caſting my ſelf into an Incapacity of lending him my due and bounden Aſſiſtance, if, in time

to

to com, it may bee uſefull to him towards the Recovery of his Right.

5. Where I may reaſonably, and *Bonâ Fide* preſume, the Oppreſſed Power, (to whom my Obedience is juſtly due) if he perfectly knew the preſent Condition I am in, together with the Exigence and Neceſſity of the preſent Caſe, and all of Circumſtances thereof, would give his willing Conſent to ſuch my Conformity and Compliance.

So that, upon the whole matter and in ſhort, I conceive I may ſo far ſubmit unto the Impoſitions, or comply with the Perſons of a prevailing uſurped Power, unjuſtly commanding things not in themſelves unlawfull; or make uſe of their Power to protect one from others Injuries, As I may ſubmit unto, comply with, or make uſe of an High-way Thief, or Robber, when I am fallen into his hands, and lie at his Mercy.

As for Mr *Aſcham's* Diſcourſe, though it be handſomly framed, yet all the Strength of it to my ſeeming (if he would ſpeak out) would be in plain Engliſh theſe:

1. *That ſelf-preſervation is the firſt and chiefeſt Obligation in the World, to which all other Bonds and Relations (at leaſt between Man and Man) muſt give place.*

2. *That no Oath, at leaſt no impoſed Oath, at what Terms ſoever expreſt, binde's the Taker further than hee intended to binde himſelf thereby; and, it is preſumed, that no man intended to binde himſelf to the prejudice of his own ſafety.*

Two dangerous and deſperate Principles, which evidently tend 1. to the taking away of all Chriſtian Fortitude and Suffering in a Righteous Cauſe: 2. to the Encouraging of daring and ambitious Spirits to attempt continuall Innovations, with this Confidence, that if they can by any wayes (how unjuſt ſoever) poſſeſſe themſelves of the Supreme Power, they ought to be ſubmitted unto: 3. to the Obſtructing unto the Oppreſſed Party all poſſible wayes and means, without a Miracle, of ever recovering that juſt Right, of which hee ſhall have been unjuſtly diſpoſſeſſed: And (to omit further inſtancing) 4. to the bringing in of Atheiſm, with the Contempt of God and all Religion, whil'ſt every man, by making his own Preſervation the Meaſure of all his Dutyes and Actions, maketh himſelf thereby his own Idol.

THE

# The Reply.

I Am ſorry ſo ſtrict a Cenſurer could finde any words to commend (as hee ſaith) the handſome frame of a booke, whoſe Deductions hee doth not like: And I had rather have accompanied ſo great a Judge to the tryall of its Baſis and Principles, then he left by him thus ſuddainly groping in the Darke, when every devious ſtep hath a Precipice, yet heare the way (as layd out in that Booke) affirm'd to be both generally good, and generally bad. If hee had ruin'd its foundations, or diſabled it in any one nominated Chapter or Section, wee might with greater confidence avoyd it, as a fabrike ready to fall by its owne nodd.

But what he hath not effected by the way of Cenſure, the Author of the Exercitation concerning uſurped Powers hath done as little by the way of Anſwer. I ſhould not have mentioned him at all (the maine of whoſe booke relates to ſeverall other Authors of a different Hiſtoricall ſcene) did not I finde him (as I ſhall here ſhew) contradictory both to friend and foe, to himſelfe, to the Principles of the Parliaments firſt engagement, to this Dr. to Boxhornius, and to the learned Grotius. Beſides hee pretends onely to anſwer two Chapters of our Author, not taking Notice of the laſt Additionall Chapters. But by the rules of all Logick it is no way of anſwering an Argument, but a kind of denying a Concluſion, if the Reſpondent only turne aſide to prove a Propoſition contrary to the deductions of the firſt Poſition aſſerted. For by that means hee anſwers nothing of anothers, but only proves ſomething of his owne, and ſo leaves the Compariſon of reaſons ſtill a queſtion; which (not to ſcandalize the Gentleman) is the only ſubject and Method of that ſecond Chapter which he beſtowes ſo Magiſterially, and to ſo little purpoſe on our Author.

Of the exercitation cõcerning uſurped Powers.

The

## *The State of the Controverſie.*

Whether in order to publique Obedience in Civill government, the Conſideration of the things commanded (as they are not in themſelves bad) be above the Circumſtantiall qualification of the Perſons Commanding? *As to doe the Offices of a Judge or Juſtice of Peace by Virtue of Commiſſion derived from any Governour what ever.*

BY *Civill Government* our Author meanes a Publique and Miniſteriall Power, ordeind ſometimes and in ſome Places extraordinarily by God, but ordinarily now by man in his publique Neceſſities, to the end that nations may be conſerved from Confuſions and Private injuries *in meo & tuo*, and that they may in all formes act ſecurely according to their Natures, Religion and Neceſſities.

Vide Bacons Hiſt. H.7.p.144

The Author of the Exercitation ſaith, *p.* 10. 12. Government muſt be delivered by Cuſtome or Law, But I would hee could informe us by what Poſitive Law *Nimrod* and others in Heroicall ſeizures enterd into Government at firſt, and whether our *Henry* the ſeventh, entring into the Government when by Law he ſtood accus'd of Treaſon, could this way be own'd, or any from him to be Lawfull Governours?

By

By *Lawfull*, the Doctor here underſtands that which is *Legall* (which relates but to private Juſtice and its Tribunals) ſo that by *Lawfull Commanders* he underſtands thoſe onely, who legally derive their Authority continuedly from thoſe who were originally authors of it: by which they who have *Ius ad regnum* ſucceed uninterruptedly (as *Boxbornius* ſaith) *In locum ultimi, & in jus primi*; which Principle (tho it hath ſuch great aſſertours) is of no ſecurity to preſent Princes and Governours, making our Obligations in oaths of Allegiance as uncertaine, as the right ſo ſpecified in them is, and may ſhake all the Kingly Titles and Crownes in Chriſtendom; as the Exercitation doth ſufficiently by his not clearing himſelfe, *p.* 2. Where hee ſaith, Princes are rightly inveſted with ſoveraignty, 1. Immediatly by God. 2. Mediatly by his committing it to the people to Elect. 3. When God by a Reſervation of his Power ſtill interpoſeth to deſigne the Perſon. Exer. p. 2.

Tho this bee well ſaid, yet it is not enough. For firſt it provides not for Peoples obeying a Capitall family in Genarchaſhip, of which our Author treats *Chap.* 11. *parte.* 2.

Secondly, what ſhall we ſay to ſuch Governours who were not originally deſign'd immediatly by God, nor mediatly by ſuch a free choice of the People as he requires, and as was ſcarcely ever practiz'd ſince *Nimrods* entry?

Thirdly, ſeeing according to him God ſtill reſerves the prerogative of deſigning Perſons to Goverments, but that the publique Revelation of his will by Prophecy and Miracles is ceas'd, what then doth that Author but allow men to undertake to change Governours and Governments by virtue of Private ſpirit and Revelation, which we are not able alwayes to confute, no more then others are able alwayes to prove to us, and after this how will that Author bee ever able to prove a certaine uſurpation in his ſence? To avoyd theſe perplexities and enquiries, our Authors, or rather St *Auſtins* Principle is ſafer both for Princes and people, *viz.* *That we obey thoſe who plenarily poſſeſſe us, and force us not to the practice of things in themſelves impious.* They who according to *Hoſea* 8. 4. *Set up Kings, but not by God*, are accountable for it; but doth it follow that wee of the People during that uncertainty might not obey them?

The like inconſonancies hath he to this purpoſe, *p.* 3. Where ſpeaking concerning the manner of the Peoples conſent to make a true

Title

Title in a Prince; he ſaith it matters not whether it be antecedent or Conſequent to Poſſeſſion.

For firſt, if it bee with the unjuſt diſpoſſeſſion of another ( which hee ought Principally to have ſpoken to ) then the Peoples ſubſequent conſent cannot make the intruſion Lawfull to the intruder.

Secondly, what will he ſay to *Boxbornius*, who maintains the ſame Cauſe with him, and argues that the Peoples conſent, tacite or expreſſe, antecedent or ſubſequent to anothers Poſſeſſion, cannot take away the right which the Heirs of a ſucceſſive Prince have to Governe, tho their father might bee juſtly ejected? Becauſe ( ſaith hee ) the Originall Compact was in conſideration of the firſt blood, not of the particular perſons governing. But by theſe looſe arguments they doe but perplex one another, more then us: and for *Boxbornius* it is ſufficient that he makes the Hollanders his Countrymen rebells ſtill, and this King of Spaine likewiſe but an Vſurper, if he derive not every way a right from the firſt blood in compact. Wherefore according to the Statute of *Henry* the ſeventh, for obeying the King being, we ſuppoſe our governour to bee Lawfull, and then proceed to make Lawes and to conforme to them.

Our Author underſtands that to be *Lawfull* which is not ſo much Legall as *Equitable*; becauſe it is *de jure publico*, of which there is no mortall Tribunall to Judge, or to receive the Pleas of ſuch ſupreme
p. 1. diſſenting Powers. So that by *Lawfull commanders* he underſtands thoſe who in this ſtate of confus'd families, and uncertainty of Traditionall diſguis'd and intereſted knowledge of rights may to us ( if not to themſelves ) be more equitably then Legally ſuch, when they plenarily poſſeſſe, Protect, and Command us Lawfull things.

p. 3. c. 1. *By Lawfull things* our Author means things no way diſconvenient with the ſociety of mankind, nor with the Principles of the Chriſtian Religion, and therefore may lawfully be practizd by us of the People at all times, and in all Countryes. Such things as theſe are.

1. *The payment of Dutyes and taxes for the preſent benefit of Protection. Becauſe a litle time ſerves to ruine a man, eſpecially in the Privation of all Goverment.*
2. *A right to joyne with others to oppoſe that which might otherwiſe confound the quiet of a whole Nation, and diſorder Politicall legall and Univerſall Iuſtice.*

3. *To*

3. *To go to the preſent Tribunals for conſerving livelyhood,* meum *and* tuum *and all legall Iuſtice.*

4. *To act ſubordinatly in Inferiour offices and callings, ſo as may be for the good of our poore Neighbours, which is but a paſſive Obedience, as all Obedience originally is, being done only* Ex Juſſu Imperantis.

It is agreed by all, that *in things* unlawfull, the Conſideration of the Perſons ( lawfull or unlawfull ) weighs not at all ; For in that Caſe we muſt obey God the ſupremeſt Magiſtrate rather then man.

But when Lawfull things are commanded, then three things are in Conſideration.

1. Some ſay, that to legitimate our Obedience we muſt firſt aſſure our ſelves of the Legality of the Perſons Commanding; and then we may obey them in all Lawfull things, otherwiſe in nothing.

2. Our Author hath aſſerted in ſeverall Chapters, That in this confus'd ſtate of the World, wherein Intereſt ( which makes falſe Gods, and Counterfit Lawes for Heaven ) makes and maintaines many Princes by the like fictions ( as they who would bee own'd as the of-ſpring of the Gods ) and Princes themſelves oft not permitting the tryall of their Rights, require as much faith for Civill, as for Religious Intereſts, *Hee* aſſerts ( I ſay ) that ſuch an Originall and Legall aſſurance being a Morall impoſſibility, it is beſt and enough for our preſent Obedience, to informe our ſelves, Whether the kingdome bee plenarily poſſeſt by thoſe who in preſent exerciſe immediate command over it. And if ſo, then we may obey them in the lawful things above ſpecified. For hee hath ſhewed that all Governours are but Miniſteriall for the quiet practice of the rules of Right, and that therefore, they enter not into the definition of Juſtice. Beſides for arguments ſake he ſaith, that a thing ſhould be continued as Civilly Lawfull, it is not alwayes neceſſary that it ſhould enter, *Sine dolo aut vitiato principio*, provided it bee not Irrationall when it is entred, or unjuſt as a cuſtome : Every circumſtantiall errour makes not a falſe Church, nor every ſin an untrue beleever. Neither doth all Civill obligation or contract among People begin by mutuall Conſent. But in the Caſes *De in rem verſo, & negotiis geſtis*, when other mens buſineſſes are well done for them, it is ſufficient if there be *Rei contrectatio*, a voluntary medling in the buſineſſe of another man ; as in the redemption of other mens Children from ſlavery, whom the Parent ought by the Law of Nature to Redeeme ; alſo in the Guardienſhip of the Minor, which is alwayes the ſtate of a Common-wealth, according to an old and true Axiome,

p. 1. c. 7, 8.

*Vide exercit.* p. 4.

Axiome, *Respub: semper est in curâ & tutelâ*: But the Law allowes the Guardien to look after the Minors Rights at his Charges, tho he know not of it, or knowing, would not (through peevishnesse) have them so Lookt after. From whence I coherently inferre, That the protection of this supreme State-guardien like a *Meritum* inferres Allegiance as a *Debitum*, according to *Solomon*, *Prov.* 27. 18. Hee who keeps the figtree shall eate the fruite thereof. Nay if he administer the same Politicall Justice, and give the same Protection or Security, we are bound to doe more then obey him, *viz.* praise God for him.

All of us say, that it is sufficient in the Change of the sabbath, if that which was *Morall* in it remaine still: and in the Point of Mission of Ministers, we say the Doctrinall Succession is sufficient, tho there were Change or Interruption of the Personall since Christs time: and what can hinder us from saying the same concerning things Civilly Lawfull (when there are civill Changes of Persons or Goverments) but immediate Interest, Ambition or Revenge? For this Reason Christ and his Apostles bad us not so much beware of Illegall and false Princes, as of false Prophets; because at the day of Judgement wee shall all be examined concerning the things themselves done here in the flesh, not under what Politicall Titles and formes.

3. The Censurer stands ballancing betwixt these two waies of Obedience, and for want of that Christian fortitude which he speakes of, outwardly onely pretends to a station of Neutrality, although really hee is most consonant with our Author, nor any way opposite to his publike Assertions, or to present Obedience.

The Cases of Obedience.

{The Cases wherein the Censurer allows Obedience to a supposed unjust Authority.}

"First, He directly saith, he can pay taxes, and conform to other things "imposed by those who unlawfully and plenarily possess a Kingdom.

Here he leaves us in the dark, by not naming those other things, which may be (for ought we know) all those other things asserted by our Author. Howsoever he sufficiently acknowledgeth the present Authority, and so fals off from those of the first opinion: But how he conceives he hath liberty to pay taxes and other duties without being commanded I understand not.

"Secondly, he saith, he can obey in things not unlawfull in themselves; "Which is the utmost of what our Author asserts, especially in the *Chapter* "*of Politicall Justice*.

"Thirdly, he can conform to what in the Conjuncture of present Cir-

"cum-

"cumstances may seem prudentially necessary for his own, and his Neigh-
"bours preservation from Injuries: He approves not of a Non-obedience,
"which might be made use of to his own danger.

{But for assuring his Obedience in these three Generall heads (which comprehend the whole state of Subjection) he must have these five *PROVISO'S*, which I shall examine, only to see how far they are opposite either to Reason, or to the Book which he Censures.}

"Those three Cases of Obedience are allowable then only, when they violate no Duty to God, or Obligation of Oath or Law. Provisos. 1.

The same is asserted largely by our Author, shewing how things in themselves just and necessary, are not displeasing to God: as also how Promissory Oaths alwaies have tacite conditions innate to them, in regard of their uncertain futurition: That the condition of Politicall Oaths, is to obey whom God permits plenarily to possesse Kingdoms, which is the sense in which Kings themselves understand them. Though such Oaths may be violated by Princes, who at the expence of the Peoples bloud, dispute *de jure ad regnum*, yet that ended, the poor People in submitting to changed Titles, violate no former Oaths. For the matter of such Oaths and Laws (as the Censurer himself hath taught it) is consumed to them, and as I may say, dyes to them like fire, rather by extinction, than by corruption. Otherwise all the World should be obliged to Morall impossibilities, which the Censurers Book of Oaths will not allow. For that were to be ever restless among our selves, till we brought God to our bent; as if we could force him to continue such Persons and Governours only, as we approve of best our selves. Sanderson prælec. 7. sec. 7.

"The second *Proviso* gives allowance only in Cases of extreme Necessity. Which our Author likewise asserts to be that alone which Originally makes, interprets, and finally abrogates Laws and Governments Ministeriall to them, and so becomes the *Cæsar* of *Cæsars*. 2.

"The third is, When he may reasonably presume, that the Power to "which his Obedience is justly due, upon consideration of his present exi-"gencies, would (if he knew them) dispence with his present Obedience "to a prevailing Power. 3.

Our Author asserts thus much and more (*Chap.* 10. *p.* 2.) not here contradicted, especially when the supposed Governour derives such an absolute clear right as is here pretended. This *Proviso* for self-Preservation, runs to the end of all the Circumstances of Subjection to a new Possessour; and may be (as he saith) as *reasonably* presumed from all *right powers*

were actually ejected, as it was reasonably practised by King *Ferdinand* antecedently to his ejection out of the Kingdom of *Naples*, to prevent the desolation of his Subjects. This indeed was a releasement by dispensation, because he then was in possession: But when Princes do (as the Civill Law saith) and as in the Government of the 24 years which our Author supposes, when *Edward* the fourth lived in *Flanders*, *pati capitis diminutionem*, and are reduced to the station of private Persons, living in other Orbes, subject to other Magistracies; then the Law looks at them as civily dead: so that the releasment then is by extinction, as the same Law saith, Θάνατος πάντα ἰσοῖ νέκυς. Death dissolves all things alike.

*Vide.* p. 1. c. 1.

The Author of the Exercitation, p. 58. fals highly foule on the Dr. here, and will not allow him this *Proviso*, saying, *Such a presumptive releasment is groundless, and highly impious, and is but his own act, & that cannot be a discharge.*

The Doctor & our Author here speak not of the extremities of one particular man, but of a whole Nation, in which Case *Posito sed non concesso* that Princes had such an inalienable right of Property in People, & that Government were for the person governing primarily, yet the presumption were good, and would discharge a man *in foro interiori*, though not *in exteriori*, where (for reasons of state) *summum jus* is somtimes *summa injuria*. I wonder What expresse Letter of the Law there was to Authorize our Saviours pulling Corne in another mans field, or *Davids* eating the shew-bread, or *Sampsons* killing of himselfe? whom *Iosephus* excus'd, because when hee saw he could live no longer but with a reproach to God, he conceivd hee might then anticipate his death. *Vid. Grot. l. 2. c. 19. §. 5. de Iur: bel: & Pacis.*

The exercitation p. 60. saith, The *Oath of Allegiance prevents such a Presumption, and obliges during life to doe all that possibly may be done for such an absent Prince.* Our Author *chap.* 9. Proves that wee are bound to doe the utmost of all our Morall not of all our Naturall endeavour, and that not during life, but during Possession, which is the scope of that Promissory Oath. Otherwise what will he say to our late Kings Oath, with the now King of *Portugall*, contrary to that which he took with the King of *Spaine* as King of *Portugall*? and what will he say to those Cases which our Author puts to him *chap.* 9. concerning those who in frontire places fall somtimes into the possession of one Prince and Allegiance, and somtimes into another quite contrary? In opposition to our Author the Exercitation delivers a strange Doctrine, affirming, *That when such Enemies prevaile they can pass no Obligation upon men so reduced, as thereby to make them indebted to them for their lives, because they were unjust enemies.* According to this,

this, there will be no faith kept betwixt Enemies ( who oft presume one as much as another of the justice of their Causes ) neither were Prisoners, releast upon their Paroles, bound to keep them, and that brave Roman releast at *Carthage* upon his faith to return again from *Rome*, did not only a sottish, but an unjust act in keeping it. But saith he in opposition to our Author *p.* 60. a new life cannot be given, and so consequently no new Obligation, and our Author cannot really prove his life another then it was. R. When a mans life is given, it is civily, though not naturally taken to be another: and if it be a contradiction to say a man can in no consideration be said to have a new life, because it is naturally still the same, then I am sure he contradicts the whole current of the Gospell, which tells us how we may become *New Creatures*, and Saint *Paul*, *Rom.* 7. did but prevaricate, when he said, It was no longer he that did such things, because the old man was dead in him; which is not to be understood as if the former individuall soule of Saint *Paul* were changed for another.

But that Author to maintaine himselfe in these streights asserts this as his Principle for all, *p.* 56. *That peoples oaths are all absolute and irrespective, and have no implications of if's or and's, &c.* From whence ( notwithstanding his great sufferings for the Parliament ) he must directly condemne their first ingagement against the King, and so he doth plainly, saying, *p.* 13. That it is unlawfull to resist or fight against any just Magistrate, as he understands just in Title, and yet *p.* 56. he calls KING CHARLES The late invasive Prince. Secondly he therby upbraids the Covenant, which provided for the preservation of the King but conditionally, in the preservation of Religion and Law. But indeed if wee trace him we shall finde that he knowes not what to make of the Covenant himselfe. For *p.* 4. where he speakes of the degrees of Viurpation, he saith distinctively that it may be either against the Oath of Allegiance, or against Covenant *which bounds it*. He might trulier have said *which derogates from it*, because that which the King was sworne to keep, we in it ( contrary to his oath and consent ) swore to take away, *viz.* Episcopacy: Moreover *p.* 59. he saith the party sworne to in the Covenant, is not the King, but the people of all ranks in the three Kingdomes, who therefore, ( as he inferres ) carry the power of Obligation to, and releasment from it in themselves, which is a wilde extravagancy and Leads to attempt any madnesse, and to dissolve all Government, and Allegiance, the People of private callings being sworne in relation and subordination to their respective Judicatories, as himselfe ( after all ) confesses with some contradiction in his America

ease. p. 5. That the houses *inscribed* the Covenant to the People: and if you would know, *quo jure*, he saith as impertinently in the same page, by Vertue of a Coordinate rank with the King; For *Coordinata sese invicem supplent*, and have mutually a power to act fully one for the other: As if the King legally could (in the making of Lawes and laying taxes) at sometime act, not onely his owne share, but that of both houses also; and so consequently might both houses comprehend themselves and the King, and consequently give an Oath of Allegiance in Covenant, which is an unsound argument, because it satisfies not both waies alike, and hath contradictions of Goverment involved in it. Our Author *chap.* 9. *p.* 2. hath shewn how impossible it is that any Promissory Oath can be absolute and irrespective, and so hath this Doctor (the Censurer) also *prælect. p.* 7. §. 7. And the Exercitator at last with more contradiction confesses p. 61. That such an Oath may be indeed suspended, but not dissolved: Whereas it is a known Maxim, *Obligationes non sunt inpendenti*, the Obligations of Promises cannot be suspended: *quia annus & dies debentur*, we owe time, which may suspend the adimpletion of a Promise, but not its obligation. Otherwise we must allow (though he would not) reservations for severall allegiances for the same people, for the same actions, and the same time, which is as contradictory, as if we would have severall Centers for the same equidistant Lines in a Circle, and that in *Holland* they owe allegiance both to the States, and to the King of *Spaine*, and in *Portugall* to the King of *Spaine*, and to the new King.

See Mr A. p. 2. c. 3. sect. 2.

"*The fourth Proviso of the Doctors is, when this may be without prejudicing* "*the oppressed party in his dues, and without disabling our selves to help him in* "*his recovery afterwards.*

This Notion is fitted only to distract people, by putting them in a way how they should do nothing in present with faith, only that they might thereby act any thing afterwards with madness; Yea, though every thing both in Religion and Nature be more favourable for Peace then for War. This is indeed a refind Chimæra, as if People could in a State live half by themselves, by their own Laws, and their own Militia, and so be taken into no plenary protection or possession, by which they may be exposed in a Moment to certain ruine. For non-obedience can expect nothing but non-protection; as King *James* in his Apology objected to *Pius Quintus* when he absolved his Catholique Subjects from their Allegiance, upon a pretence that he was an Hereticall, and therefore an unlawfull King: To which the King replied, That what truth soever there might be in this his unlaw-

unlawfulneſs, yet it was never aſſerted in the Church before, That Temporall Obedience to any temporall power was againſt faith and ſalvation of ſouls: a Doctrine which this Cenſurer doth ill now to ſecond a Pope in againſt a Proteſtant King.

Nay, though it were true That one Prince or Power commands to the prejudice of an other ejected, yet the peoples obedience, when neceſſary, is not unlawfull, but in ſubmitting their *Tutela* is *inculpata*. For it is eaſie to underſtand how we may have a right to receive what another may not have a right to give; as a Neceſſary alms begd and received from one who got his riches by wrong and oppreſſion: as alſo in borrowing mony upon biting Uſury, when a man cannot by Morall diligence get it other waies. As for the dues here mentioned, I ſhall ſpeak to them in the next Proviſo.

Here I muſt obſerve that the Author of the Exercitation hath an expreſſe Chapter againſt no other Author which I know of but the Doctor in this his forth *Proviſo*, highly blaming him for giving way to the temporizing reſervations of Allegiance during the intervall and prevalency of another Power: at which Power ſome profeſs themſelves ſo much ſcandalized, that they cannot ſee how they may with a good Conſcience ever go to Law in the preſent Courts of Juſtice for their debts and rights. But for their eaſe this Exercitation hath found out an excellent expedient for them (tho not moulded from that equity whereby Saint *Paul* appealed to *Cæſar*) which is, *That they may now recover their dues in thoſe Courts, provided they give not ſuch titles to the Judges and Officers as they ſhould give to the Lawfull Magiſtrates.* I wonder whether this Gentleman thinks the like exception and ſcruple might not have been made againſt their Courts during the Parliaments firſt War with the King, when Judges and every thing elſe was regulated here, only by his name, and abſolutely againſt his Will. Such another expedient for the Kingdom of *Scotland* would ſet all right in their Juſtice too; For I beleeve the King of *Scotland* hitherto hath made no more Judges in *Scotland* then the Prince of *Wales* hath done in *England*. But the grand Caſe of Conſcience p. 10. will tell this Gentleman (how truly let him look to it) that his expedient ſalves not half the difficulty; and that after he hath received that which he judges in himſelf is *juſtly* his own, by the might and power only of an unjuſt Court, yet he hath not his own: becauſe a thing in it ſelf juſt is not recovered by their help juſtly: For Juſtice and Judgment is then only juſt, when it derives from the Juſt Legall Magiſtrate, and Juſtice, as he ſaith p. 26. looks upward, as well as downward. Chap. 3.

The

The like Note doth he recommiend to the Clergy, *p.* 24. adviſing them not to preach on ſuch unſeaſonable days as a wrong Magiſtrate ſhall appoint for ſome Religious duty, ea, though the Pariſhioners were willing to heare the word of God. Surely he cannot think but they will follow Saint *Pauls* authority, rather then his, who enjones them *to be inſtant both in ſeaſon and out of ſeaſon.*

"*The fifth* Proviſo *is, That this ſubmiſſion be only to the* Νύναμις, *not with* "*an acknowledgment of the* ἐξουσία *of the prevailing Power.*

I know not to what purpoſe this Criticiſme is inſerted to weigh againſt the conſequence of ſuch important Caſes and Arguments, unleſs it be to indiſpoſe people by perplexing them. Though the difference betwixt thoſe two Greek words, be no more then is betwixt *Potentia* and *Poteſtas*, or as is more Critically betwixt *power* and *Authority*, yet our Author *p.* 2. *ch.* 11. §. 9. proves that the inequality of force, or *Potency* is the originall ground of ruling, as well as *Impotency* is of ſubjection. For which reaſon Maſter *Hobbes* his ſuppoſition, That if there were two Omnipotents, neither could obey one the other, is very concluſive.

But if I ſhew that ἐξουσία *Rom.* 13. 1. ſignifies no more then the eſtabliſhment of a ſupreme δύναμις, when it comes at laſt to be (as Saint *Paul* ſaith) ὑπερέχουσα, and without further conteſts actually poſſeſſes all other Powers, and that every Country hath not a Prophet to give aſſurance of Gods extraordinary reveal'd will, then I ſuppoſe this Proviſo will ſignifie noting.

That ſuch is the meaning of ἐξουσία, *Rom.* 13. is evident. Becauſe *v.* 1. the Apoſtle ſpeaks onely of the Powers which *de facto* are, and that by this very word ἐξουσία. Moreover hee interprets it clearlier. *v.* 3. οἱ γὰρ ἄρχοντες εἰσὶ φόβος τῶν καλῶν ἔργων, *They who actually rule are a terrour to evill workes*: but how? the anſwer is in the ſame verſe, Becauſe they *carry or hold not the ſword in vaine*; which can in no ſenſe be underſtand of thoſe who have actually loſt the ſword; by which diſpoſſeſſion they are diſinabled to fright any body, being in the ſenſe of the Law Civilly dead themſelves. Seing then the change of Gods Vice Roys, or of the hands which carry ſwords, is of his ſecret diſpoſing, not by meere chance or humane contrivance, it will concerne us to ſubmit to them (after an eſtabliſhment) as to an Authority or ἐξουσία, and that for Conſcience ſake; leſt by continuall diſturbance (and without aſſurance for the ſucceſſe of more then our Morall endeavours have attain'd to) wee unneceſſarily breed a publique diſturbance to our owne and others deſtructions.

But

But if by ἐξουσία he meane a cleare right without interruption, deriv'd *ab origine* from ſome Capitall family or Compact, hee might put all the World into an endleſſe ſuffle, before he ſhould finde ſuch Perſons for all Kingdomes: And Princes quietly poſſeſt or ( as *Henry* the Seventh would have it ) eſtabliſht, are but little beholden to him for this doctrine of Allegiance, as little as the People are to him for his Divinity, who for want of that, which they cannot get, are by him neceſſitated ever to do all juſt things doubtingly and without faith. If hee ſpeak as a Caſuit he cannot argue *Preſcription* for the cleare right of one againſt the preſent Poſſeſſion of another. For Preſcription of it ſelfe proves only a Comparative right, as one may bee ſome what better then the other, onely becauſe ancienter. Preſcription is but a kind of Penalty in a State, and therefore is allow'd the Opinion and effects of Right, and in a tryall makes an Excellent exception againſt the claime of another; as when *Ieptha* objected 300. yeares Poſſeſſion to the Ammonites. The C. Law preſumes that what cannot appeare to be anothers, is therefore the Poſſeſſours, & becauſe men have ſo much intereſt in the continuall preſervation of thoſe neceſſary rights which truly belong to them, therefore in the ſence of that Law, that thing cannot appeare to be anothers, which hath been for ſo many years neglected by him: & for ſuch negligence the Law judges him worthy to be puniſht with the loſſe of what he pretends to. This perhaps is an inconvenience to particular men, yet States allow it as an Equity to avoyd a greater inconveniency, *viz.* Publique diſquiets, perpetuall controverſies, and uncertainty of Properties.

But how ſuddainly doth all this, vaniſh when we argue *de jure ad regna?* For triall of which there is no Tribunall, coercion, or *Regula juris*, ſave that *one and all* of neceſſity. Neither can a Caſuiſt plead time againſt truth; nor by that Accident ever make wrong become right, or turne *quantity* into *quality*.

The Author of the Exercitation takes much paines diſperſtly to prove an ἐξουσία on his new ſence, but ſo, that if he had a King to day, he would go neer to cachier him to morrow, unleſſe ( after Poſſeſſion ) he would ſubmit to the Peoples con-

 ſent

ſent for giving him a new Title (which *Henry* the ſeventh refus'd) or for confirming an old Title. *Hee ſaith all lawfull power is founded upon the Wills of thoſe over whom it is ſet*, p. 4. I wiſh hee had ſpecified how he underſtands this: For tho the Senate might give *Cæſar* an Authority over the towne of *Rome*, yet from that Poſition a man might queſtion what right he or they could have to extend their Authority ſo far from *Rome* as this Country of ours is, contrary to the wils of thoſe millions which they governed: Moreover St *Paul* wrot his 13 ch. to the *Romanes*, with an exhortation to obey them there, where they (the *Roman* Magiſtrates) never entred by the free Votes of the People. They who according to *Hoſea* 8. 4. doe ſet up wrong Kings are onely anſwerable for it, but I doubt that the rule which he gives us, p. 62. *Whereby we may know when a Prince is given by God, is not in his owne intent ſufficient*. For if wee want the reveiled will of God (as Miracles and publique Prophecie now are ceas'd) I believe the authority of *Gamaliel* (who for ought we know had not the ſpirit of God) ſignifies very little in this Argument, *viz. That if in be of God it will laſt*. For many things which are not of Gods expreſſe ordination laſt long, and many things of Gods liking laſt but a little, as *Iehus* power. From whence her inferres coherently, p. 63. *that for the preſent we muſt ſubmiſſively brave thoſe evills*, yet three lines after hee contradicts all againe, *ſaying we are alloweil to remove them when they are befallne*; as if a man could at the ſame time both carry and throw downe the ſame burthen. In the midſt of theſe rounds which he runs, I wonder what fixt rules he would give for the reception of Embaſſadours (when they muſt firſt prove their Maſters Titles) for the limits and duration of Empires, &c? The Lawes of Nations muſt and do determine theſe, and not the Municipall Lawes of any one Country; But p. 53. *he profeſſeth he knowes not what the Lawes of Nations or of War meane, if they derogate or vary from other humane Lawes*, as they indeed doe, War beginning there where other Law ends, and reciprocally, and if he knowes not this it is neither Mr *Seldens* nor *Gratius* &c. faults, but his owne. For want of

this

this he censures *Grotius* very impertinently for saying, *That if one Compeer unjustly invades the others rights, he may by the Law of War lose the exercise of his own rights.* This Gentleman p. 54. thinking to mitigate the rigour of this, heightens it; *For saith he, it is not necessary that his right should be lost, but that he make reparation, and according to the justice of the Scripture he ought but to make a fourefold restitution of damage.* But I pray you what difference is there betwixt losing a right, and not having that without which no satisfaction can be made, nor any readmission may be obtained? Princes are still little beholding to him for these Arguments. For after a War, and the desolation of Countries, how can an invading Prince satisfie for the reall dammages which are so many? Or for the Personall injuries or murthers of so many, of which there can be no Compensation at all?

The assertion of our Authors ninth *Chapter* not being this, *That meere violent extrusion takes away a Soveraigns right*, I have nothing to do to follow the Arguments of the Exercitation *Chap.* 2. as if they were positive answers to our Author; I shall only vindicate him in two places where the Exercitation would fasten Contradictions on him.

Our Author saith, that we are bound to own Princes so long as it pleases God to give them the power to command us, and when we see others possest of their powers, we may then say, that the King of Kings hath changed our Vice-Roy; and yet speaking of Antichrists Dominion, he saith, it can by no Prescription become lawfull, neither can a Christian submit himself to it without wounding his faith; which saith the Exercitation is a Contradiction. Ch. 10. p. 2. sec. 3.

I answer with King *James*, that we speak here only of Temporall Obedience in Temporall things, and as the Pope is a Secular Prince he may have Allegiance due to him, (upon which account severall Protestant Princes have received his *Nuncios*) although his spirituall Capacity may be denied him. Thus they who in his Country may not go to his Churches, may safely obey him in his other Laws and Courts, in which assertion there is no Contradiction.

Secondly, Our Author ſaith, that 'the Obedience which the Iſraelites owed to *Nebuchadnezzar*, ought not to be a generall rule for ſubjection, which contradicts the former Poſition, as the Exercitation conceives, but erroniouſly.

Firſt, becauſe they were given up as a prey to him.

Secondly, Becauſe they were warned by Prophets ſo to obey, whereas we now of this Age neither have them, nor Miracles to warrant us.

Hitherto I have ſhewed you what conſonancy there is betwixt the Cenſurers *Poſitions* and *Proviſos* with our Author.

But leſt ſo much truth might unawares do ſome harme, and that intereſts might not be changed with opinions, he laies the Book aſide, and falls roughly on two Aſſertions, which yet he ſaith our Author hath not ſpoke openly to.

uppoſitions. 1. "*The firſt concealed opinion of our Author, or rather the Doctors* "*own ſuppoſition is, That no Oath binds the taker further then he in-* "*tended to bind himſelf thereby, and it is preſumed, that no man inten-* "*ded to bind himſelf to the prejudice of his own ſafety.*

Who can ſufficiently wonder at the Doctors great errour in this aſſertion? Seeing the fourth Chapter in the ſecond part of our Author is expreſly & *in terminis* writ to prove the quite contrary; ſhewing that a Promiſſory Oath is to be taken in the Principalls or Propounders ſence; *ſine ſubticentiâ aut amphibologiâ*. Becauſe a Promiſe is a Pact for transferring ſomthing to another, as to a Principall, whoſe ſence we are bound to follow, if our ſence tells us that ſuch or ſuch is his ſence, and no further, unleſs we will our ſelves.

As for our Miniſters former Subſcriptions to Epiſcopacy, and their ſwearing ſince to extirpate it in Covenant, our Author *ch.8.* hopes Mr. *Chillingworths* Vindication to be ſufficient.

*The ſecond tacit ſuppoſition is, that ſelf-preſervation is the firſt and chiefeſt obligation in the World.*

Our Author affirmes it to be the firſt, as in the State of Nature, *p.2.c.11.* but not the chiefeſt for many Civill and Religious Obligations which derogate from that afterwards, eſpecially where

where the Queſtion is directly of Chriſt come in the fleſh. Yet he affirms *p. 2. c. 11.* that moſt civill bonds made betwixt man and man are but for better ſecuring ſelf-preſervation: and that men bound to venture their lives, are not therefore bound to loſe them. Becauſe the Obligation is of all our Morall, not of all our Naturall endeavours: and upon this ground he ſaith, *chap. 8 p. 2.* that Souldiers moſt ſtrictly ſworn to a Prince, may in rout take quarter: becauſe to dye for him, is to do nothing for him, but fruitleſly to ceaſe to do any thing at all, either for the glory of God, or for the good of our ſurviving Neighbour. *Yea, this very Doctor ſaith, Prælect. 7. ſect. 7. That Fathers may diſinherit their Children, and Children their Fathers, though they ſwore never to do ſo, viz.* If they ſeek to deſtroy one another; which according to him involves full forfeiture of rights, even to Publique Parents notwithſtanding former Oaths of Allegiance.

And as if the Doctor were nere reſolved to ſay plainly *by whom it is that Princes ceaſe to reign*, he himſelf affirms in his Paper, that in the like conjuncture of Circumſtances he can likewiſe allow himſelf the ſame Prudentialls to prevent Dangers which might otherwiſe happen to him by ſuch changes, and yet he will not openly allow ſo much to others.

*Which as King James in his Apology ſaith is a doctrine full of blood, unneceſſarily keeping poore people either from quarter or Protection, Kingdomes from Peace, authorityes from ſetling; and in the ſearch of uncertaine rights (which this Doctor makes neceſſary for juſt actions) hee makes us feele trepidation in our conſciences, ſee Crownes tottering on Princes heads, finde Atheiſme in our actions, and deſolation in our Country.*

In fine, ſeeing no man knowes better then hee (who is ſo great a Maſter of Reaſon) that if he had brought never ſo many more *Incommoda*, and thoſe true ones, yet hee could not by that Logiek have overthrowne one Poſitive Argument of our Author; I could therefore wiſh, that by anſwering that which was publiſht ſo long before any chang of goverment here,

here, hee had made his reaſons more publique then his ſcandall, Unleſſe (after ſo many Precepts of Chriſt and his Apoſtles, the practicall Obedience of them, and of all the reſt of the World ever ſince) hee can ſhew wherein our Authors aſſertion of Publique Obedience, is more chargeable with Novelty, or the contempt of God, then St. *Auſtins* which he wrote in the ſame termes, and in relation to the like changes and confuſions, *viz.* *Quid intereſt ſub cujus imperio vivat homo moriturus, ſi illi qui imperant ad impia & iniqua non cogant? Nam quid interſit ad incolumitatem bonoſque mores quod alij vicerunt, alij victi ſunt, omninò non video.* That is, *What matters it under whoſe goverment hee who is dayly dying lives, if they who command force him not to the practice of impious things? For I cannot any wayes perceive what advantage it is either to our ſafety, or integrity of life and manners, that ſome are conquerors, others are conquered.* Aug. Civ. dei. l. 5. cap. 17.

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# *FINIS.*